IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 23871 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA Sd/-

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1 Whether Reporters of Local Papers may be allowed to see the judgment ? NO

2 To be referred to the Reporter or not ? NO

3 Whether their Lordships wish to see the fair copy of the judgment ? NO

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ? NO

5 Whether it is to be circulated to the civil judge? NO

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SHREE SHANKAR INSTITUTION OF EDUCATION SOCIETY - Petitioner(s)
Versus
HEMCHANDRACHARYA NORTH GUJARAT UNIVERSITY - Respondent(s)

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Appearance :
MS MAMTA R VYAS for Petitioner(s) : 1.
MR MITUL K SHELAT for Respondent(s) : 1.

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA

Date : 22/11/2007

ORAL JUDGMENT

1 Rule. Learned Advocate for the respondent is directed to waive service. In light of the view that the Court is inclined to

adopt the petition is taken up for final hearing and disposal today.

2 This petition has been filed praying for the following reliefs :

> *"26. In the aforesaid premises, the petitioner most humbly prays that :*
> *(A) Your Lordships may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction directing the respondent University to allot the students to the petitioner institution from the academic year 2007-08;*
>
> *(B) Pending admission, hearing and final disposal of this writ petition, Your Lordships may be pleased to direct the respondent University to start the process for allotting the students to the petitioner institution forthwith;*
>
> *(C) Pending admission, hearing and final disposal of this writ petition, Your Lordships may be pleased to direct the respondent University to permit the petitioner Trust to admit 15 students on their own;*
>
> *(D) Be pleased to pass such other and further reliefs as may be deemed just and proper by Your Lordships in the facts and circumstances of the case".*

3 The case of the petitioner is based on the order of recognition granted by NCTE on 24/25-07-2007 permitting the petitioner institution to commence B.Ed. Course with intake of 100 students. According to the petitioner despite all

formalities having been completed the respondent University has failed to allot students and take appropriate steps for grant of affiliation and hence the petition.

4 The learned Advocate for the petitioner has placed reliance on various contentions raised in case of *Chanasma-Patan Taluka Gram Vikas Higher Education Trust Vs. Hemchandracharya North Gujarat University* in Special Civil Application No. 24133 of 2007 as recorded in judgment dated 30.10.2007. However, on behalf of the respondent University it was submitted that in light of the academic schedule as recorded by the Court in the aforesaid judgment identical order is required to be made because the respondent University has passed a common resolution in case of the present petitioner as well as the petitioner of Special Civil Application No. 24133 of 2007.

5 The learned Advocate for the petitioner is not in a position to dispute the similarity of facts but the contention was that in some other matters wherein against grant of interim relief by Division Bench the matters have been carried by the respondent University in Special Leave Petitions and the matters are pending before the Apex Court and hence, the

present matter may also be adjourned awaiting decision of the Apex Court.

6 Request for keeping the matter pending is not accepted. In the present case no interim orders have been made by this Court either in the present proceedings or in any Letters Patent Appeal. The case of the petitioner therefore is squarely governed by the judgment dated 30.10.2007 in case of *Chanasma-Patan Taluka Gram Vikas Higher Education Trust Vs. Hemchandracharya North Gujarat University* (supra) as the fact situation is identical.

7 Hence, the petition is required to be allowed on the same terms and conditions as recorded in the judgment dated 30.10.2007 more particularly paragraph No. 19 of the said judgment which reads as under :

> *"19. In light of what is stated hereinbefore, the relief as prayed for cannot be granted. However, the petition is allowed to the aforesaid extent viz. respondent University shall grant affiliation and allot students for Academic Year 2008-2009 considering the fact that the petitioner has complied with all other requirements and fulfilled the requisite conditions stipulated in NCTE order of recognition. The petition is allowed accordingly in the aforesaid terms. Rule made absolute. There shall be no*

order as to costs".

8 Hence, this petition is also allowed on the same terms and conditions. Rule made absolute. There shall be no order as to costs.

Sd/-
(D.A. Mehta, J.)

m.m.bhatt